

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Endowments Department – A.P.E.T. – O.A.No.1292 of 2010 (Old No.103 of 2007 of D.C., Guntur) - Judgment referred to Government for final decision with regard to pronouncement of judgment – Communication of the decision of the Government - Orders - Issued.

Revenue (Endts.IV) Department

G.O. Ms. No. 200

Dated: 22.04.2013.

Read:

From the Chairman-cum-District Judge, A.P.E.T, Hyd. in
Lr.Rc.No.in/103/2011, Dt:16.06.2011.

O R D E R: -

Whereas, Sri Kondraju Venkata Narasimha Rao, S/o late Pattabhi Rama Rao and others, Susarla Street, Nellore, Nellore District have filed an application before A.P.E.T. praying to recognize them as Founder Trustees of Sri Neelakanteswara Swamy Temple, Kaluvoya (V&M), Nellore, Nellore District. After hearing both sides, i.e., the applicant and the respondents, the Tribunal framed the following points for consideration to decide:

- i) Whether the petitioners are entitled to be recognize as Member of Founder Family of the subject temple U/s.87 (1) (h) r/w 15-19 of the Act, 30/87 and if so with any others ?
- ii) To what result. ?

2. The Chairman A.P.E.T., Cum District Judge after discussing the issue point wise concluded as below:-

“Accordingly, in the result, the petition is allowed and with no costs, holding and declaring that the petitioners are entitled to be recognized and declared as member of the Founder’s Family and to enter the same in the Section 43 register of the Act, 30/87 to consider them for appointment as Founder’s Family Trustees in rotation or otherwise in the trust board to be constituted by the appointing authority subject to qualifications and disqualifications U/s 18 and 19 of the Act. Advocate fees fixed is Rs.2,000/-.”

3. Whereas the Member, A.P.E.T. has differed with the above conclusion and delivered the following judgment:

“Thus, the agnatic line of succession of the Founder Sri Akkaraju Narasaiah had ended with Akkaraju Venkata Narasaiah who was blessed with daughter by name Nagamma. Being not in the line of agnatic succession of the Founder of the subject temple Smt. Akkaraju Mahalakshamma alias Kondaraju Mahalakshamma, W/o Venkata Subbaiah has no right to execute any Will Deed dt:31.10.1956 (Ex.P4) which has also not been proved as per the Evidence Act. The Ex.P3 the order of the Asst. Commissioner dt:18.11.1992 permitting the PW1 to succeed the office of the hereditary trusteeship for the said temple in the place of his father is of no value as by that time passing the said proceedings the right to hereditary trusteeship has been abolished U/s 16 of the Act, 30/87 and has no evidentiary value. The Ex.P2 genealogical table doesn’t show that the PW1 petitioner and other petitioners is not in agnatic line of agnatic succession of the founder Sri Akkiraju Narasaiah. The Ex.A1 approved property register by the HRC Board in which Smt. Akkiraju Mahalakshamma showing the names of the trustees in Col.No.4(A) do not improve the case of the petitioner as the PW1 is not in line of agnatic succession to be declared as member of Founder Family of the subject temple and the petitioners are failed to establish their claim/relief. Therefore, the petitioners are not entitled to the claim for declaring them as members of the Founder’s Family namely Sri Akkaraju Narasaiah of the subject temple. The issue No.1 is answered accordingly.”

4. In view of the different conclusions of the Chairman and Member, the Chairman referred the matter to the Government for taking a final decision by Government as per rule 22 (2) APC&HRI and Endowment Tribunal Rules, 2010 made in G.O.Ms.No.180, Dt:28.01.2011 so as to enable the Tribunal to pronounce final judgement.

5. As per the rule 22 (2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 : "*Both the Chairman and Member should hear the arguments in the application and deliver the order signed by both of them or independently. In case of disagreement the Chairman shall address the Government*".

6. Government, after carefully examining the opinions of both the Chairman, A.P. Endowments Tribunal and Member, have observed that under Sec.2(15) of the Act, 17/1966 r/w sec.17 of the Act.30/87 amended by Act 27/2002, the said Akkaraju Nagamma, d/o Akkaraju Venkata Narasaiah, S/O Akkaraju Narasaiah was the hereditary trustee and as per the line of succession provided by her in her will appointing her daughter Kondraju Mahalakshamma as hereditary trustee, K. Mahalakshamma was the hereditary trustee and was recognised and acted as such as per Ex.P1 property register and when Kondraju Mahalakshmma as hereditary trustee under the old Act.17/1966 was the founder within the definition of explanation of 1of sec.17 of the Act.30/87 amended by the Act 27 of 2002. The fact that the petitioners' father Pattabhi Rama Rao was adopted son of K. Mahalakshamma acted as hereditary trustee of the temple after Mahalakshamma under the old Act,17 of 1966, and he could be called as agnatic descendent of the founder within the definition of member of founder family under Explanation II of sec.17 of the Act, 30/87 amended by the Act 27of 2002. Thus, the petitioners are entitled to be recognised as members of the founder of the 2nd Respondent Temple and to enter the same in the section 43 register of the Act.30/87 to consider them for appointment as Founders Family Trustees in rotation or otherwise in the trust board to be constituted by the appointing authority subject to qualifications and disqualifications under sec.18 and 19 of the Act. The Government agree with the above and upheld the opinion of the Chairman of the APET duly allowing the petitioner to declare him as a founder family member.

7. The Chairman-cum-District Judge shall take further necessary action to pronounce final judgement as per the above decision of the Government. The judgement with records in original are returned.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.G. GOPAL,
PRL. SECRETARY TO GOVERNMENT.

To
The Chairman-cum-District Judge,
APET, Hyderabad. (W.e. judgement with records)
Copy to:
O.S.D. to Min (Endts.)
P.S. to Prl.Secy., to Government.
Sf/Sc.

//FORWARDED :: BY ORDER//

SECTION OFFICER.